

REMARKS/ARGUMENTS

Amendments

The claims are modified in the amendment. More specifically, claims 1, 9 and 31 have been amended, and claims 24 and 26 have been canceled. Claims 5, 14-20 and 23 were previously canceled. Therefore, claims 1-4, 6-13, 21, 22, 25 and 27-34 are present for examination. Applicants reserve the right to pursue any un-amended, canceled or withdrawn claims in a continuing application without any prejudicial effects. No new matter is added by these amendments. Applicants respectfully request reconsideration of this application as amended.

Interview

On May 18, 2009, the Examiner granted an in-person interview to discuss the outstanding Office Action and suggested amendments. Granting of interviews is always appreciated. This interview was just a courtesy call to explain our argument presented below along with the importance of this invention to the Applicants.

35 U.S.C. §103 Rejections

The Office Action has rejected claims 1-4, 6-13, 21-22 and 24-34 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of U.S. Patent No. 6,990,676 to Proehl et al. (hereinafter "Proehl") in view of the cited portions of U.S. Patent No. 5,884,141 to Inoue (hereinafter "Inoue"). Applicants believe that major limitations from independent claims 1, 9, 30 and 31 as amended are not taught, alone or in combination, by Proehl or Inoue. More specifically, Proehl and Inoue do not teach or suggest receiving first and second portions of a media program wherein the first and second portions are received with different media types chosen from a group of types consisting of a multicast media or a singlecast media, as generally recited by independent claims 1, 9, 30 and 31. Applicants note that this limitation already appeared in some of the claims prior to this amendment. Should a new reference be cited, a new non-final rejection is respectfully requested.

Missing Limitation: Receiving first and second portions of a program over different media

Claims 24 and 26, now canceled, generally recited this missing limitation amended into independent claims 1, 9 and 31. Claim 30 generally recited this limitation already so was not amended in this response. The Office Action rejected these claims by stating that the missing limitation reads on the combination of references, since the linearly scheduled programming of Proehl meets multicast and the downloaded lead-in segment of Inoue meets singlecast. *Office Action*, at page 8. Applicants respectfully disagree.

Neither Proehl nor Inoue teaches or suggests singlecasting one portion of the program while multicasting another portion of the program. Proehl describes broadcasting of the programs only, using a digital satellite system (DSS). The method of Proehl includes "receiving a program when it is broadcasted over a satellite communication medium." *Proehl*, at Col., 2, ll. 52-54.

Similarly, Inoue describes that "[i]n a first mode of operation, a user enters a request into user interface 106 for the reception and display of a particular video program. ... Since each near video-on-demand channel consecutively rebroadcasts the program, the channel which is transmitting the hindmost segment of the program will usually be the next to commence another transmission of the requested program." *Inoue*, at Col. 5, ll. 20-33 (emphasis added). Broadcasting is multicasting, not singlecasting as required by the independent claims.

The Office Action does not cite portions of Inoue or Proehl that teach anything other than broadcasting the programs. Applicants respectfully submit that Proehl and Inoue do not teach or suggest, alone or in combination, receiving first and second portions of a media program wherein the first and second portions are received with different media chosen from a group consisting of a multicast media or a singlecast media, as generally recited by independent claims 1, 9, 30 and 31.

Applicants respectfully submit that independent claims 1, 9, 30 and 31, and dependent claims 2-4, 6-8, 10-13, 21, 22, 24-29 and 32-34 that depend from the independent claims, are allowable at least because neither Proehl nor Inoue teach or suggest the missing limitation discussed above. As the only amendments to the independent claims were already in

Appl. No. 09/687,151
Amdt. dated June 11, 2009
Reply to Office Action of January 28, 2009

PATENT

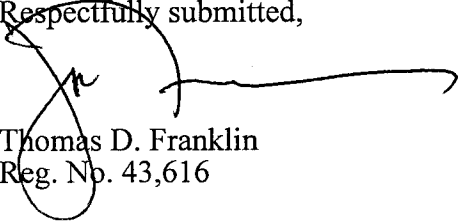
claims 24 and 26, a new search is not precipitated by this amendment. Should the Office wish to cite new references, a new non-final office action is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



Thomas D. Franklin
Reg. No. 43,616

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300
TDF:sjs
61819538 v1